

## REMARKS

### I. Status of the claims

Claims 44-74 are pending. Claims 2, 19-36, and 38 have been cancelled.

New independent claim 44 recites a double-stranded ribonucleic acid, and is supported by original claims 1, 2, and 10. Additionally, the claim feature reciting "at least one single-stranded overhang" finds support in the specification at page 11, lines 3-14; and the claim feature reciting the length of 2 to 4 nucleotides finds support in the specification at page 11, lines 14-26.

New independent claim 57 recites a method for the targeted selection of a double-stranded ribonucleic acid. Support for this claim may found be in original claim 19 and the passages of the specification noted above.

New claim 71 recites a method for inhibiting the expression of a target gene in a cell. Support for new claim 71 may be found in original claim 38 and the passages of the specification noted above.

No new matter has been added through these amendments.

### II. Restriction Requirement

The examiner has restricted the claims into three inventions: Group I, containing claim 2, drawn to nucleic acids; Group II, containing claims 19-36, drawn to a method for selection of dsRNA; and Group III, containing claim 38, drawn to a method for target gene inhibition. Applicants hereby elect Group I, with traverse. New claims 44-56 are directed to the subject matter that the examiner has classified in Group I. Claim 70, directed to a pharmaceutical composition comprising a nucleic acid of claim 44, should also be classified within Group I.

As set forth in MPEP § 803, there are two criteria for a proper requirement for restriction: (1) the inventions must be independent or distinct as claimed, and (2) there must be a serious burden on the examiner if the restriction is not required. In this case, the examiner has not shown that a serious burden would be required to examine all the groups together. Groups I and II, in particular, are both classified as falling under class 435. While the examiner has classified these groups as falling within different subclasses, the examiner has not shown that it would be a burden to search the different subclasses. Because both groups have been classified as falling within the same class, it is likely that there will be at least some overlap in the searches,

especially in view of the similarity of subject matter. Additionally, the claims that would be classified as falling under Group III (new claims 71-74) are dependent upon claim 44, which falls within Group I. Therefore, Applicants respectfully traverse the restriction requirement and request that all the pending claims be examined together.

III. Election of species

The examiner has required that Applicants elect a single SEQ ID No. with the elected group. Applicants hereby elect the P4 SEQ ID disclosed in Example 6. See page 88, lines 24-25 of the specification.

IV. Conclusion

Except for issue fees payable under 37 C.F.R. §1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 19-2380. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. §1.136(a)(3).

Respectfully submitted,

/Jeffrey N. Townes, Reg. No. 47,142/

Jeffrey N. Townes

Registration No. 47,142

Dated: January 15, 2009

**Customer No. 84717**

NIXON PEABODY LLP

Suite 900, 401 9<sup>th</sup> Street, N.W.

Washington, D.C. 20004-2128

202.585.8000